THE HIGH COURT OF UTTARANCHAL AT NAINITAL

First Appeal No. 309 of 2001
(Old F.A.F.O. No. 251 of 1991)

The Collector, Haridwar.

….**Appellant.**

Vs.

1. Smt. Allahdi W/O Mohd. Hasan,
2. Asghar Ali
3. Mansaf Ali, Sons of Nazar,
   R/O village Piran Kaliyar, Tehsil Roorkee,
   District Haridwar. (Claimants)

…**Respondents**

Sri Nand Prasad, learned Standing Counsel for the appellant.
None for the respondents.

Dated June 14,2006

P.C.: Hon'ble B.S. Verma, J.

This appeal under Section 54 for the Land acquisition Act read with section 96 of the Code of Civil Procedure is directed against the judgment and award dated 7-2-1991 passed by the then Additional District Judge, Roorkee, Haridwar, in Land Acquisition reference No. 142 for 1989, Smt. Allahdi and others Vs. Collector Haridwar, whereby the learned Reference Court allowed the reference and held that claimants entitled to get compensation of land @ Rs. 30,000/- per Bigha.

Relevant facts necessary for a just decision of the appeal are that the Collector acquired land of the landowners including the claimants of the present case under the World bank Project for modernization of Upper Ganga Canal situate in village Piran Kaliyar, Tahsil Roorkee, district Haridwar. Notification under Section 4(1) of the Land Acquisition Act (***for short the Act***) followed by Notification under Section 6(1) for the Act were issued. Several landowners filed their objection under Section 9 for the Act, which were sent to the Special Land acquisition Officer (***for short S.L.A.O.***) for disposal. The S.L.A.O. after completing the

necessary formalities gave his award on 23.1.1989 and a compensation of Rs. 53,71,453-20 was awarded. Aggrieved by the said award, landowner filed objections to the effect that the market value of the acquired land was not properly assessed by the S.L.A.O. and the land was fit to fetch Rs. 80,000/- per Bigha, which have rise to the present reference.

At the outset, it may be mentioned that some other references were filed by the landowners of village Piran Kaliyar, Tahsil Roorkee, Haridwar (then district Saharanpur) and the Additional District Judge by separate judgment decided the reference holding that the claimants were entitled to get compensation @ Rs. 30,000/- per Bigha. Accordingly, the impugned award was modified by the Reference Court.

According to the claimants the land under acquisition was situate at the religious place namely Dargah and four fairs were held every year and the land was given on rent for the shops during *Mela* season and they were earning sufficient money from the rent. The assessment of compensation on the basis of circle rates was also challenged.

The Collector resisted the allegations made by the claimants and in the written statement it was asserted that no Mela is held on the acquired land, rather the claimants are harvesting crops on the land and the award of compensation on the basis of Circle Rates fixed by the Collector is just and proper. The potentiality of the acquired land on other points was denied.

The learned Reference Court framed necessary issues, recorded evidence led by the rival parties, and after perusing the evidence on record and hearing the parties, passed the impugned award. It was observed by the Reference Court that the acquired lay was at a distance between 100 Mt. and 500 mt. from the Dargah. The claimants failed to show that the land in question

could fetch the amount as claimed by them at the time of publication of Notice under Section 6 of the Act. The learned Reference has in fact based its finding on the sale-deed dated 20-10-1984 whereby 1-1-5 Bigha land was sold by Sharif Ahmad in favour of Alhaz Darbez.

I have heard submissions of the learned Standing Counsel Sri Nand Prasad and perused the entire material on record including the impugned award.

The main ground on which the impugned award has been assailed is that the compensation assessed by the S.L.A.O. on the basis of the Circle Rates fixed by the Collector was proper and justified and a finding to the contrary is not maintainable in appeal.

At the beginning I may mention that the Circle Rates cannot be said to the best evidence to fix compensation under the Land Acquisition Act. The circle rates are fixed for realization of the stamp duty. It has been conceded by the learned Standing Counsel that circle rates are not meant for determination of market value of the land but for the purposes of realization of stamp duty under the Stamps Act. While assessing the compensation the matters which are enumerated under Section 23 of the Act. It is well settled that for assessing market value of the land, sale exemplars relied upon by the parties ought to have been considered. In this premises, the impugned award has to be examined.

In the award of the S.L.A.O., the sale-deed referred to above has been referred to, rather he has relied upon the same, but while assessing the market value of the land, the S.L.A.O. ignored the sale instance dated 20-10-1984. Admittedly the Notification under Section 6 of the Act was published on 17-1-1987, therefore, the sale-instance relied upon by S.L.A.O., the land of which was similar in nature as well as in its potentiality and location. It has not been denied that the kind of land under the sale-deed was

similar in nature. The learned Reference Court did not find favour with the contention of the landowners that there was any income from rent and the landowners could not lead any such evidence that besides the two main crops, there was any other use of the acquired land. The evidence on record also clearly indicates that the ***Dargah*** is situtated at some distance from the acquired land. On the basis of the evidence on record especially relying upon the sale instance referred to by the S.L.A.O., in my view, the learned Reference Court has rightly awarded compensation @ Rs. 30,000//- per Bigha. Having Considered the entire evidence, facts and circumstances of the case, I am of the opinion that award of compensation of land @ Rs. 30,000/- per Bigha by the Reference Court is fully justified and supported by the sale instance relied upon by the Special Land Acquisition Officer. No infirmity or illegality has pointed out by the learned Standing Counsel as to warrant interfere with the findings arrived at by the learned Reference Court.

No other point was urged or argued before me in the appeal.

In view of the discussion above, the appeal preferred by the State has no merit and must fail.

The appeal is hereby dismissed. The impugned judgment and award dated 7-2-1991 is upheld. In the facts and circumstances of the case, no order as to costs.

(B.S. Verma, J.)

RCP